IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1169 OF 2004

Sudhakar H.Shetty ...Petitioner.

Versus

M/s.Rajlaxmi Kirana Ghar
and Anr. ...Respondents.

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Mr.M.R.Phal, Advocate for the Petitioner.
Ms.Sheela Tambe i/b Manoj Bhatt, Advocate for the Respondent.
Mr.D.S.Mhaispurkar, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : JULY 31, 2006.

P.C.:

1. Heard Mr.Phal learned Advocate for the petitioner-original accused and Ms.Sheela Tambe learned Advocate for the Respondent No.1 - original complainant.

2. Process came to be issued against the petitioner under Section 138 of the N.I.Act in S.C.No.39/2002 which is pending before the learned J.M.F.C. Roha. The petitioner preferred an application for recalling of process, which came

to be rejected by the learned J.M.F.C. Being aggrieved by the said order a Revision came to be preferred by the petitioner before the Sessions Court at Alibag. However, there was delay of 30 days in preferring Revision before the Sessions Court. Hence, an application for condonation of delay in filing the said Revision Application came be preferred being Criminal Misc.Application No.288 of 2003. However, the learned Sessions Judge by order dated 25th March, 2004 rejected the said Misc.Application No.288 of 2003 for condonation of delay as according to him sufficient cause was not shown for the delay in filing the Revision Application.

3. It is seen that the petitioner is dealing in catering business through out India and in view of this fact, he was required to move throughout India. It is further stated that the month of May is an especially busy season. The Revision ought to have been filed on 7th May, 2003. However, the Revision came to be filed on 2nd June, 2003. The Apex Court in the case of **Collector, Land Acquisition, Anantnag & anr. Vs. Mst.Katiji & Ors.**, reported in **AIR 1987 S.C.1353** has observed

that while considering the sufficient cause for not filing of application in time, Court should take a liberal view. In any event, in the present case the delay is only of 30 days. In my view, looking to the facts and circumstances of this case, sufficient cause has been made out for condonation of delay caused in filing the Revision Application. Hence, Misc.Application No.288 of 2003 is allowed and the delay in filing the Revision is condoned. The learned Sessions Judge shall hear the Revision Application and dispose of the same on merits after hearing necessary parties. The trial is stayed till the Revision Application is disposed of.

4. Writ Petition is disposed of accordingly.

(SMT.V.K.TAHILRAMANI,J.)